

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

COUNTY OF SANTA CLARA, et al.,
Plaintiffs,
v.
KE “JASON” WANG, et al.,
Defendants.

Case No. [5:20-cv-05823-EJD](#)

**ORDER DENYING MOTION FOR
LEAVE TO FILE MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 33

On September 1, 2020, the Court issued an order remanding this case *sua sponte*. Dkt. No. 31 (“Remand Order”). In that Remand Order, the Court found that the State of California was the real party in interest to this suit and that a state cannot be a party to a diversity action. *Id.* at 4. Because no diversity jurisdiction existed and no other basis for removal was put forth, the Court found it appropriate to remand *sua sponte*. *Ibid*; see 28 U.S.C.A. § 1447 (“If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded”). On September 3, 2020, Defendants filed a Motion for Leave to File a Motion for Reconsideration of the Remand Order. Dkt. No. 33 (“Motion”).

Federal law provides that “[a]n order remanding a case to the State court from which it was removed is not reviewable on appeal or otherwise,” with two exceptions that are not relevant here. 28 U.S.C. § 1447(d). The Ninth Circuit has held that “[t]his language has been universally construed to preclude not only appellate review but also reconsideration by the district court. Once a district court certifies a remand order to state court it is divested of jurisdiction and can take no further action on the case.” *Seedman v. U.S. Dist. Court for Cent. Dist. of California*, 837 F.2d 413, 414 (9th Cir. 1988); see also *Musumeci v. Musumeci*, No. 5:20-CV-00454-EJD, 2020

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WL 1139659, at *1 (N.D. Cal. Mar. 9, 2020).

This court lacks jurisdiction to reconsider its Remand Order. Respondent's motion for leave to file motion for reconsideration is **DENIED**. The clerk shall serve a copy of this order on Respondent and shall transmit this order to the Santa Clara County Superior Court.

IT IS SO ORDERED.

Dated: September 8, 2020



EDWARD J. DAVILA
United States District Judge

United States District Court
Northern District of California